

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

WALTER WREN WYATT, III

Plaintiff,

VS.

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,  
et al.

Defendant.

CIVIL ACTION NO. 1:07-CV-326-MHT-CSC

**MOTION TO STAY DISCOVERY**

Defendant Mortgage Electronic Registration Systems, Inc. (“MERS”) moves this Court to stay discovery in this matter pending a decision on its Motion to Dismiss (Doc. No. 8). As grounds, MERS states as follows:

1. In this case, the plaintiff seeks a statement of debt from the defendants for purposes of redeeming certain real property (the “property”) pursuant to *Ala. Code* § 6-5-252 and § 6-5-256.

2. As explained in the Motion to Dismiss, under Alabama law, it is clear that the plaintiff (the mortgagor) cannot obtain the relief sought from MERS (the purchaser at the foreclosure sale) because MERS conveyed the property to Defendant Secretary of Veterans Affairs (the vendee) before the plaintiff sought a statement of debt under § 6-5-252 from MERS. *Reed v. Skeen*, 591 So. 2d 51, 53 (Ala. 1991) (“[w]here property has been sold under a power of sale in a mortgage and the purchaser has conveyed to another, the mortgagor must redeem from the vendee.”) (emphasis added). Accordingly, MERS should be dismissed from this case.

3. While MERS plans to serve its initial disclosures in accordance with the deadlines set by the Court's scheduling order, any further participation in discovery would be an injustice and

unduly prejudicial to MERS because MERS would be required to incur the cost and expense of participating in discovery despite the lack of a valid claim against it.

4. Counsel for Defendant Secretary of Veterans Affairs has informed counsel for MERS that he plans to commence taking depositions in this matter as soon as practicable. Consequently, MERS respectfully requests that this Court stay discovery pending a decision on its Motion to Dismiss.

Respectfully submitted this the 7th day of June, 2007.

/s/ Louis M. Calligas

One of the Attorneys for Defendant  
Mortgage Electronic Registration Systems, Inc.

**OF COUNSEL:**

James A. Byram, Jr. (BYR003)  
jbyram@balch.com  
Louis M. Calligas (CAL060)  
lcalligas@balch.com  
BALCH & BINGHAM LLP  
P. O. Box 78  
Montgomery, AL 36101-0078  
(334) 834-6500  
(334) 269-3115 (Fax)

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 7th day of June, 2007, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

John McClung, Esq.  
515 Glover Avenue  
Enterprise, Alabama 36330

R. Randolph Neely, Esq.  
U. S. Attorney's Office  
P. O. Box 197  
Montgomery, Alabama 36101-0197

Richard W. Whitaker, Esq.  
P. O. Box 311166  
Enterprise, Alabama 36331

/s/ Louis M. Calligas  
Of Counsel